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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

Federal Communications Commission  
Office of Secretary

In the Matter of

CS Docket No. 97-55

Industry Proposal for Rating

Video Programming

DOCKET FILE COPY ORIGINAL

REPLY COMMENTS OF THE FAMILY RESEARCH COUNCIL

To: The Commission

I. THE INDUSTRY RATING PROPOSAL IS DOCKET FILE COPY ORIGINAL

The Family Research Council<sup>1</sup> is a non-profit research and educational organization whose mission is to promote and defend the family and traditional values.

The dual purpose of the V-chip legislation is to aid parents in identifying programs that are inappropriate for their children and to give them a feasible technical means to block those programs.<sup>2</sup> Congress was concerned with various categories of objectionable material.<sup>3</sup> Importantly, to the extent that programming contains material that is "indecent" under the broadcast indecency regulations,<sup>4</sup> it may not be aired except during the "safe harbor" from late evening to early morning hours. Thus, programming containing "patently offensive" sexual material aired during daytime or "prime time" violates the broadcast indecency law without regard to whether it is rated.

The industry's "voluntary" rating system, based on the Motion Picture Association's voluntary age-based system, does not fulfill the objectives of the legislation because it fails to give parents "information about the nature of upcoming video programming" to "allow them to easily block violent, sexual, or other [harmful] programming."<sup>5</sup> Indeed, the industry's system is an abandonment of the V-chip legislation's purpose to inform parents about the violent, sexual, or otherwise harmful content of the programming. While not every piece of information relevant to a parent's decision can be included in a rating system, information about the specific categories of objectionable material must be provided to parents in order that they receive the information and assistance that Congress intended for them.

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## II. THE PROPOSITION THAT RATINGS SHOULD PROVIDE NO DISTINCTION BETWEEN HETERO- AND HOMOSEXUAL CONTENT SHOULD BE REJECTED.

The Commission has received comments urging that the V-chip rating system make no distinction between heterosexual and homosexual content.<sup>6</sup> This proposition fails to take into consideration the fact that parents object to their children viewing sexually-oriented content not merely on the basis of the explicitness of the portrayal — which is restrained by law under the broadcast indecency regulations — but on the basis of the *kind* of sexuality portrayed. Depictions of sexually inappropriate behavior on television, especially when presented in a context in which they are treated as normal or acceptable, are highly objectionable programming content. Homosexuality and sexual promiscuity as behaviors are considered unnatural and immoral as a matter of Judeo-Christian doctrine and belief. To the vast segment of the population which identifies itself with this belief system, programming presenting this behavior as morally neutral or positive is patently objectionable for children's viewing.

A rating system, such as the one under consideration in this proceeding, that does not inform parents that a television program contains homosexual themes or characters or promiscuity denies parents the information necessary to make viewing choices for their children and defeats the clear intent of Congress.

## III. THE RECORD SHOULD MAKE PUBLIC A PRIVATE PRESENTATION TO THE FCC RELEVANT TO THE PROPOSED RATING SYSTEM.

On July 18, 1996, a presentation was made to Commission staff in the Commission hearing room arranged and moderated by Barrett Brick, an attorney in the Cable Services Bureau,<sup>7</sup> the Bureau chosen to handle the present proceeding. The Family Research Council has viewed a videotape of this presentation.

This presentation, "Images of Gays and Lesbians in the Media," featured Kathy Renna, Co-chair of the National Capital Area of the Gay and Lesbian Alliance Against Defamation (GLAAD). Ms. Renna described GLAAD as "the only national gay and lesbian organization that dedicates itself solely to improving media images of gay and lesbian, bisexual and transgender people."

Apparently, Ms. Renna's presentation was in anticipation of the present proceeding. She said, "It will be in the hands of the FCC to create the rating system. So I'm here to make friends and contacts and network." She continued,

Parents sort of assuming the responsibility of what their children will see and whether it contains any content about the gay and lesbian community — is that going to be immediately taken out? I mean those are the things we

worry about. The system has not really been sort of set up yet, but they're questioning whether it will be evaluative or descriptive, and that's a huge issue for us. The evaluative ratings, which are very similar to the movie ratings that we see the MPAA developed, will allow more freedom for viewers and for the people that produce television programming. So we're really pushing for them to go with the evaluative system. These are the questions I know are going to challenge our community greatly in the next few months and I'm going to urge all of you to get involved and inform yourselves and to help GLAAD really whenever possible in this struggle that we have for this kind of inclusive coverage.

Ms. Renna also spoke of her hope that a national celebrity would become a lesbian "role model."<sup>8</sup> She said:

I remember — and I'm a young person — growing up and seeing no images that I could relate to on television ... people who I looked at and that defined how I was feeling for me. If you're a young person today -- and I have a niece who is eleven years old who will watch *Friends* and see two lesbians get married and who will watch *Frazier* and see gay and lesbian characters and gay and lesbian people playing characters and they're "out" on the show — it makes an incredible impact.

At the conclusion of her presentation, Ms. Renna displayed a copy of a brochure that solicited contributions for GLAAD<sup>9</sup> and invited the FCC staff to pick up a copy from the nearby table in the Commission meeting room.

While the Commission's disclosure rules may determine that this event did not trigger the FCC's disclosure requirements for non-restricted proceedings,<sup>10</sup> the Family Research Council nevertheless protests the fact that an FCC attorney arranged a presentation by an outside organization to lobby the FCC for adoption of an evaluative rating system as an aid to promoting homosexual "role models" for children on television.

The purpose of the disclosure requirements is "to ensure that the Commission's decisional processes are fair, impartial, and otherwise comport with the concept of due process."<sup>11</sup> They are "designed to deter improper communications and maintain the utmost public confidence in Commission proceedings."<sup>12</sup> Even if the Commission did not technically violate its disclosure requirements, it clearly violated their spirit and purpose.

Therefore, we call for the transcript of the entire recorded presentation, "Images of Gays and Lesbians in the Media," to be made a part of the public record in the present proceeding, and an opportunity for the public to respond to GLAAD's private presentation on the television rating system.

We also call for Barrett Brick and others in his Bureau who have participated in this private presentation to recuse themselves from further participation in this proceeding.

Respectfully submitted,

Handwritten signature of Robert Knight in black ink, with the initials "KE" written below it.Handwritten signature of Cathleen Cleaver in black ink, with the initials "(e)" written at the end.

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#### NOTES

1. The Family Research Council promotes and defends the family in the media, develops and advocates initiatives that strengthen and fortify the family and promote traditional values, and conducts and maintains research relating to the importance of the family as the fundamental structure of our society.
2. Section 551(a)(9) & (e) of the Telecommunications Act of 1996 (hereinafter, "1996 Act"). See comments of the Center for Media Education.
3. 1996 Act § 551(e)(1)(A).
4. 18 U.S.C. § 1464.
5. 1996 Act, § 551(a)(9) & (e).
6. See comments of Michael McPhail (2/18/97) and Marcello Lanfranchi (2/6/97) posted at [vchip@fcc.gov](mailto:vchip@fcc.gov).
7. Barrett Brick has been with the FCC for more than ten years. He is a nationally known homosexual activist and has been Executive Director of the World Congress of Gay and Lesbian Jewish Organizations (*Washington Post*, April 24, 1993, A01). His activities on behalf of homosexual rights are known and have been encouraged at the FCC (See the *San Francisco Examiner*, July 15, 1991, A 8, where Mr. Brick describes how he was cheered by the FCC staff in his Bureau for having broken the law in the course of a homosexual rights demonstration).

8. She complained, "We have no gay CNN, no gay *Entertainment Tonight*, and I think what I'm really here for is a dialogue to talk about our strategies in addressing that in the future." This ignores the 31 openly homosexual prime-time characters of whom homosexual activist groups now boast.

9. The brochure, titled "Not all gay bashers use a fist or a weapon," stated, "Your generous contribution today, means continued success tomorrow" and "Please make checks payable to and send to: GLAAD" followed by an address. It is our understanding that an internal FCC complaint sent to the General Council's office asking about the legality of such solicitations at the FCC has been ignored.

10. 47 CFR Section 1.1206. We understand that, in the week after the presentation, all Commissioners were given a description of its content along with queries as to the possible triggering of the Commission's disclosure rules. The FCC disclosure rules could be said to have been triggered in February of 1996 when the Telecommunications Act was signed into law (months before the GLAAD presentation), since a Commission determination of the acceptability of such rules is now underway. The Act itself may be interpreted to have mandated this proceeding, insofar as it states, "in consultation with appropriate public interest groups and interested individuals from the private sector." 1996 Act, § 551. It might also be argued that the notice and comment provisions of the Administrative Procedures Act have been violated. We do not, however, pursue these arguments here.

11. 47 CFR 1.1200

12. Id.